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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAY - 4 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Policies and Rules)
Implementing the Telephone)
Disclosure and Dispute)
Resolution Act)

CC Docket No. 93-22
RM-7990

REPLY COMMENTS

MCI Telecommunications Corporation (MCI) hereby responds to the comments filed on the Commission's Notice of Proposed Rulemaking and Notice of Inquiry (NPRM) regarding the Telephone Disclosure and Dispute Resolution Act of 1992 (TDDRA or the Act).

I. Definition of Presubscription or Comparable Arrangement

The American Telephone and Telegraph Company (AT&T) and the National Association for Information Services (NAIS) argue that a "presubscription or comparable arrangement" should require a

has been provided to the customer and the customer chooses to place a call, then a "presubscription or comparable arrangement" has been established; and a written agreement or a PIN should not be required.

II. Limiting Pay-Per-Call to 900 Access

The comments present a compelling argument against restricting pay-per-call (PPC) services to 900 access; namely, that such a restriction would hinder the development of new services such as those that would involve the use of N11 and N00 codes. In addition, such a limitation is not necessary to protect consumers because all PPC programs, regardless of the access method, would be required to comply with the TDDRA and the FCC and FTC rules implementing it including the preamble

adopted by the Commission, the comments demonstrate that, technically, it is not possible to do so. The TDDRA requires local exchange carriers (LECs) to offer blocking to consumers and, as demonstrated by Pacific Bell, LECs cannot differentiate between interstate and intrastate interLATA call. Accordingly, the blocking requirements for interstate and intrastate PPC calls must be the same.

In addition, the National Association of Consumer Agency Administrators (NACAA) asks the Commission to require "reverse blocking" (whereby PPC access is blocked unless a consumer requests such access). The Commission, however, previously rejected this proposal because it would unnecessarily hinder the development of PPC service.

IV. Billing Information

The comments support MCI's position that the Commission should not require additional information on the billing statement concerning PPC calls. Currently, telephone bills that contain pay-per-call charges indicate, among other things, the pay-per-call number called, the name of the program, and the time, date and duration of the call. In addition, the billing statement lists a toll-free number which customers can call to obtain more information about the IP and the program.^{1/}

In addition, under the FTC's proposed rules, billing

^{1/} The TDDRA also requires that billing statements contain this information.

entities are required to inform all customers about their rights and obligations under the TDDRA and applicable rules, including information on non-payment of disputed amounts, in a bill insert either annually or with every bill containing a pay-per-call charge. Moreover, the TDDRA requires carriers to provide to all

carriers and other parties providing billing and collection for pay-per-call services "provide appropriate refunds to subscribers who have been billed for pay-per-call services pursuant to programs that have been found to have violated this section or such regulations, any provision of, or regulations prescribed pursuant to, title II or III of the [TDDRA], or any other Federal law." Accordingly, billing entities must provide refunds under this section only after an order or decision finding that a program violates the TDDRA, the rules and regulations implementing the TDDRA or any other federal law has been issued.

The Commission's proposed rule, which would require billing entities to issue a refund when the Commission or the carrier determines that a program is in violation of federal law seems to require refunds when less than a final determination of unlawfulness has been made and, therefore, goes far beyond the language of the statute. Thus, the Commission should revise its rule to reflect the Act.

The Commission also should reject the National Association of Attorneys General (NAAG) request that the Commission expand the refund provision to require refunds if a program violates state law, or where the call was unauthorized, because it would impose obligations on billing entities far beyond what Congress intended. On its face, Congress clearly did not intend the refund requirement of the TDDRA to apply to violations of state law. Moreover, such a provision would require billing entities to be aware of the thousands of laws in each of the fifty states

and the District of Columbia. Not only is this impossible, but it would impose an immeasurable and totally unreasonable financial burden on billing entities. Accordingly, the NAAG's proposal should be rejected.

VI. Cost Recovery Issues

MCI agrees with GTE and Pacific Bell that a Joint Board is not needed to handle recovery of restricted costs in compliance with the TDDRA. In light of the many other important ongoing issues that will require Joint Board action, such as separations and access charge reform, it would be a waste of scarce industry resources to focus exclusively on this one relatively minor matter.^{2/}

Restricted costs can be segregated into two discrete categories: costs of free blocking, and billing and collection-related costs, such as information dissemination, billing procedures and refund requirements. MCI believes that both types of costs can readily be handled under existing cost-recovery mechanisms.

Ameritech and Bell Atlantic state that the incremental costs of free blocking are negligible and neither carrier anticipates any significant future costs for this type of service. MCI agrees with these carriers, and does not believe that the costs

^{2/} Other ongoing industry issues which will require separations and access charge reform include the local transport restructuring in CC Docket No. 91-213 and switched transport interconnection currently under discussion in CC Docket No. 91-141.

of free blocking are significant enough to warrant specific cost-recovery mechanisms.

If, however, a carrier can demonstrate that it does reasonably incur significant costs for blocking, MCI agrees with BellSouth that the cost standard to be applied should be long-run incremental. These blocking costs should be precisely identified and removed from access rates as an exogenous reduction. They could then be passed on to the primary cost-causer, the IP, through a pass-through charge levied by the IXC. For non-dominant IXCs, the Commission should permit them to develop their own method for recovering these costs.

As demonstrated by Ameritech, any costs associated with billing and collection services would not be tariffed and would be part of the LECs' billing and collection revenue requirement, which is recovered through contracts with the IXC. Like blocking costs, these costs should be accurately identified so that they

or charge card. Accordingly, charges for such calls will not be billed to a payphone.

In addition, to prevent receiving collect calls, payphone owners can subscribe to a class of service offered by the LEC that prohibits the billing of toll charges to the access line. Accordingly, no additional protections are needed in these rules.

VIII. Conclusion

Based on the foregoing, MCI respectfully requests that the Commission revise its proposed rules as discussed in its comments and herein.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

By:



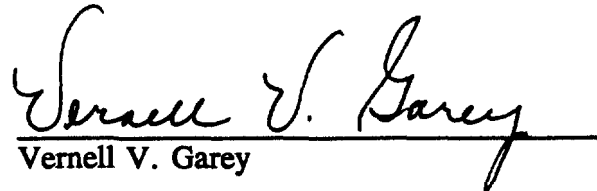
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Dated: May 4, 1993

CERTIFICATE OF SERVICE

I, Vernell V. Garey, do hereby certify that on this 4th day of May, 1993, copies of the foregoing "**Reply Comments**" in the Matter of Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act in CC Docket No. 93-22, RM-7990 were served by first-class mail, postage prepaid, upon the parties listed on the following attachment.


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RM-7990
Page -2-

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RM-7990
Page -3-

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RM-7990

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RM-7990

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RM-7990

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RM-7990

Page -7-

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RM-7990

Page -8-

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